

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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S.K., by next friend GINA KILDAHL,  
on behalf of themselves and those similarly situated,

Plaintiff,

ORDER

v.

21-cv-637-wmc

SCHOOL DISTRICT OF FALL CREEK,  
SCHOOL DISTRICT OF FALL CREEK  
BOARD OF EDUCATION, JOE SANFELIPPO,  
BROCK WRIGHT, ERIC RYAN, ANNMARIE  
ANDERSON, JILL GESKE, COURTNEY KNEIFL  
and DOES 1-10,

Defendants.

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Plaintiff's convoluted and poorly drafted complaint in this case was originally filed on October 11, 2021 (Dkt. #1.) Although Attorney Ronald Stadler initially purported to file a notice of appearance on October 27, 2021, for the purpose of disputing the sufficiency of service (dkt. #4), defendants do not appear to have ever formally challenged the sufficiency of service, and Stadler filed another notice of appearance on November 23, 2021, without any limitation (dkt. #23). That same day, defendants also moved to dismiss plaintiff's original complaint. (Dkt. #7.) While plaintiff purported to oppose that motion on December 15, 2021 (dkt. #10), she also filed an amended complaint as a matter of right that same day under Fed. R. Civ. Pro. 15(a)(1)(B). (Dkt. #11.) As a result, it is unclear whether defendants plan to stand on their original motion to dismiss, move again or file a responsive pleading.

Now before the court is plaintiff's just-filed motion for a temporary restraining order and preliminary injunction (dkt. #16) with proposed findings of fact (dkt. #17-1) that only

partially meet the court's standing procedural requirements and, in any event, fail to provide a basis for the court to issue a TRO. Indeed, whatever merit there may be in plaintiff's motion for a PI, she waited 70 days after filing her complaint to move for a temporary restraining order, both the named plaintiff and proposed class members are students who have already contracted COVID-19, and the only evidentiary support provided by plaintiff in support of a TRO is so backward looking (as are the allegations in plaintiff's amended complaint) that it fails to even address the implications, if any, of the Omicron strain to their supporting medical affidavits.

Accordingly, the court DENIES the motion for a temporary restraining order and RESERVES on plaintiff's motion for preliminary injunction pending completion of the preliminary pretrial conference already scheduled before Magistrate Judge Crocker on January 7, 2022, who will no doubt get this matter back on track, including establishing an orderly schedule for completion of submissions on the plaintiff's PI motion and, if appropriate, defendant's renewed motion to dismiss.

Entered this 20th day of December, 2021.

BY THE COURT:

/s/

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WILLIAM M. CONLEY

District Judge